

No. 209, "An act to regulate the issuing of land patents in certain cases." Judiciary Committee No. 1.

No. 474, "An act to incorporate the Hearne, Belton and Northwestern Railroad." Committee on Internal Improvements.

No. 802, "An act to enable certain towns and cities to erect hospitals." Committee on State Affairs.

No. 50, "An act to regulate the practice of medicine." To special committee, consisting of Senators Avinger, Pyle and Cole.

No. 610, "An act to incorporate the City Bank of Dallas." Committee on State Affairs.

No. 531, "An act to authorize the Commissioner of the General Land Office to furnish photographic county maps to the several counties of the State." Committee on Land Office.

No. 228, "An act to amend article four hundred and thirty-five of the Code of Criminal Procedure." Judiciary Committee No. 1.

No. 812, "An act to enlarge the boundaries of Concho county." Committee on Counties and County Boundaries.

No. 760, "An act to authorize the holders of State warrants to surrender the same to the Treasurer, and receive State bonds for the same." Committee on Finance.

No. 312, House joint resolution "Providing for a vote of the people of the State calling a convention to frame a new State Constitution." Committee on Constitutional Amendments.

And had passed a concurrent resolution "For the payment of scholastic census takers." Committee on Finance.

On motion of Senator Fountain, the rules were suspended and Senate bill No. 294, "An act to incorporate the Irish Immigration Aid and Colonization Association of the State of Texas," was read second time.

On motion, the Senate adjourned.

SENATE CHAMBER.)
AUSTIN, TEXAS, May 7, 1873.)

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Avinger, the reading of the journal of yesterday was dispensed with.

On motion of Senator Henry, Senator King was excused from attendance on the Senate for to-day.

Thomas Hancock, assistant doorkeeper, came forward and was sworn in.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Enrolled Bills beg leave to report that they have carefully examined and compared the following bills:

Senate bill No. 311, "An act to incorporate the Bastrop Turn Verein."

Senate bill No. 331, "An act to prohibit the sale of intoxicating liquors within two miles of Pattonville, in Lamar county."

And find the same correctly enrolled.

H. R. LATIMER, Chairman.

Senator Finlay, chairman of Judiciary Committee No. 2, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee, on Judiciary No. 2, to whom was referred House bill No. 424, to be entitled "An act to amend an act entitled an act prescribing the time of holding the district courts in the several judicial districts in the State, approved August 10, 1870," having carefully considered the same, I am instructed to report it back, with the recommendation that it do pass.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred Senate bill No. 281, to be entitled "An act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico," having carefully considered the same, ask leave to report back to the Senate the accompanying substitute, and recommend its adoption and passage.

GEO. P. FINLAY, Chairman.

On motion of Senator Finlay, the rules were suspended to consider the report just read.

On further motion of Senator Finlay, the bill was made special order for to-morrow at 4 o'clock P. M., and one hundred copies ordered printed.

Senator Cole, chairman of the Committee on Private Land Claims, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred Senate bill No. 186, to be entitled "An act for the relief of the heirs of Harrison W. Goyne, deceased," have considered the same, and instruct me to report it back and recommend that it do pass.

D. W. COLE, Chairman.

Senator Shelley in the chair.

A message was received from the House, informing the Senate that the House had adopted a concurrent resolution as a substitute for Senate joint resolution No. 40, authorizing and requiring the sheriff of Williamson county, by himself or deputy, to summon a posse for the purpose of pursuing and arresting certain persons accused of crime, and providing rewards for such arrests.

Also, that the House had passed Senate bill No. 52, "An act to amend sections one, one hundred and fourteen, one hundred and ninety-two, two hundred and seventeen, two hundred and forty, two hundred and forty-two, two hundred and fifty, two hundred and fifty-one, two hundred and fifty-two, two hundred and sixty-six and three hundred and forty-one of an act entitled an act prescribing the mode of proceeding in district courts in matters of probate, approved August 15, 1870."

Unfinished business, viz., Senate bill No. 231, "An act to provide for the sale of lands belonging to the common school fund, and the lands set apart to the several State asylums."

The bill was read second time, and the report of the committee recommending a substitute for the bill adopted.

Senator Sayers proposed the following amendments:

Amend section nine by inserting after the word "fund," in line seventeen, the following: "or to the county to which it may belong." Adopted.

Amend section ten by inserting after the word "purchased," in line fifteen, the following: "and the execution of his note, with two good and sufficient sureties, payable to the Governor for the balance of the purchase money." Adopted.

Amend section ten by inserting at the end thereof the following: "All notes taken as herein provided for shall be filed in the State Treasury, and suit may be brought

thereon by the Governor whenever the same, or any part thereof, may be due." Adopted.

Amend section eleven by adding to the end of said section the following: "*Provided*, that the proceeds arising from the sale of lands belonging to the several counties shall be held for the benefit of the counties to which they may belong." Adopted.

The bill as amended was then ordered engrossed; rules suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Ford, Flanagan, Fountain, Gaines, Latimer, Pyle, Saylor, Sayers, Shelley, Swift and Tracy—18.

Nays—Senators Finlay, Hall, Henry, Rawson, Ruby and Word—6.

On motion of Senator Gaines, the rules were suspended to take up House bill No. 424, "An act to amend an act entitled an act prescribing the time of holding the district courts in the several judicial districts in the State, approved August 10, 1870."

The bill was read second time and passed to a third reading; rules further suspended, read third time and passed.

Senator Saylor offered the following resolution, which was read and referred to the Committee on Contingent Expenses.

WHEREAS, The journal of the Senate of the adjourned session has been written up to date of adjournment, Saturday, December 2, 1871, and duly attested by the secretary; and

Whereas, The journal clerk, James E. Slater, has not received his *per diem* for the same; therefore, be it

Resolved, That he be allowed sixty days' *per diem* for said services, and the secretary of the Senate is hereby authorized and required to issue his certificate upon the Comptroller for the sum of four hundred and eighty dollars.

The following bills were taken from the President's desk and read first time.

House bill No. 453, "An act regulating taxation."

House bill No. 111, "An act to incorporate the Dallas Palestine and Southeast Texas Railroad Company."

House bill No. 596, "An act amendatory of and sup-

plementary to an act entitled an act to organize and incorporate the East Line and Red River Railroad Company, approved March 22, 1871."

On motion of Senator Finlay, the rules were suspended to take up House bill No. 429, "An act to authorize H. B. Boston, A. Hamilton and R. B. Hudson to erect a pontoon bridge over the Guadalupe river at the town of Clinton, in De Witt county, Texas."

The bill was read second time.

Senator Finlay proposed the following amendment: Amend by adding at the end of the third section the following proviso: "*Provided*, that the prohibition contained in this section shall not apply to the trust bridge now being constructed across Guadalupe river by the Cuero Bridge Company, incorporated under the 'Act concerning private corporations.' " Adopted.

The bill then passed to a third reading; rules suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Ford, Flanagan, Fountain, Henry, Latimer, Rawson, Ruby, Saylor, Sayers, Shelley, Swift and Word—20.

On motion of Senator Finlay the rules were suspended to take up Senate bill No. 304, "An act to incorporate the Clinton Bridge Company." The bill was read second time.

Senator Finlay proposed the following amendment: Amend section five by adding the following: "*Provided*, that the bill shall not affect the Cuero Bridge Company." Adopted.

The bill as amended was then ordered engrossed; rules suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Ford, Finlay, Flanagan, Fountain, Hall, Henry, Latimer, Rawson, Ruby, Saylor, Sayers, Shelley, Tracy and Word—20.

On motion of Senator Henry the rules were suspended to take up Senate bill No. 52, "An act to amend sections one, one hundred and fourteen, one hundred and ninety-two, two hundred and seventeen, two hundred and thirty-five, two hundred and forty, two hundred and forty-two, two hundred and fifty, two hundred and fifty-one, two hundred and fifty-two, two hundred and sixty-six and

three hundred and forty-one of an act entitled an act prescribing the mode of proceeding in district courts in matters of probate, approved August 15, 1870," with amendments by the House.

The question being upon the concurrence of the Senate in the amendments of the House to the bill, the same was put and the Senate refused to concur in the amendments.

The hour having arrived for the consideration of the special order, viz., Senate joint resolution No. 38, for the relief of S. J. Todd,

On motion of Senator Fountain the same was postponed until he could offer a resolution.

Senator Fountain then offered the following resolution, which was adopted:

Resolved, That rule twelve of the rules of procedure and practice for the guidance of the Senate of Texas, while sitting as a high court of impeachment, be and the same is hereby amended by striking out the words "twelve o'clock M.," in line three, and inserting instead the words "ten o'clock A. M.," and that this amendment shall take effect on Thursday, May 8, 1873.

The following message was received from his Excellency the Governor.

EXECUTIVE OFFICE, STATE OF TEXAS,
AUSTIN, May 6, 1873.

Hon. E. B. Pickett, President of the Senate:

SIR: I return to the Senate the act entitled "An act to establish and maintain a system of public free schools in the State of Texas," and I ask that it be reconsidered with reference to the following, among other, in my opinion, very serious objections thereto:

1. The Constitution, Article IX, Section 4, directs the Legislature to "establish a uniform system of public free schools throughout the State;" but this act, though it proposes in its title to establish such "a system," in reality does away with all system. It gives, in section eighteen, authority to the county boards to "define the course of study in the public schools in their respective counties, and direct the class and kind of school books and apparatus to be used therein," and to "prescribe the duties of the trustees and teachers." These powers embrace pretty much everything that is essential to a system of schools, and it is plain that under them, instead of having *one* system for the State, we may have as many as

there are organized counties, or say one hundred and thirty-five systems.

2. It further strikes at uniformity of system by dispensing with the board of education for the State. Such, or a similar board, having supervisory control and direction of the schools, has been found essential to their uniformity and success in all States, both American and foreign, where the public schools have reached the greatest perfection. A board of education with powers analogous to those created by the law in force is not a new thing in this State. It was provided for in the provisional Constitution of 1866, Article X, Section 10.

3. It provides (section twenty-two) that the schools shall only remain open for four months annually. This provision alone will, if adopted, put an end to the public schools on a scale of efficiency and permanency in any respect worthy of our State. It is obvious that well qualified teachers cannot be had at a reasonable compensation to give their services for so short a period annually. Persons who devote themselves to teaching as a life profession (and, if possible, such persons only should be employed in teaching) cannot and will not accept employment of this temporary nature. As a consequence professional and competent teachers who remain in the State will be driven to take private schools, and the public schools, now so creditable in their results, must soon, from inefficiency, lose the respect and patronage of the people and fall into disuse. Public schools should be superior to private as means of education. In all States where the public system has been successful this result has been brought about mainly by raising them to so high a standard that private schools of equal grade cannot favorably compare with them. Where this has been the case private schools have disappeared. But, to secure their favor, it must be made apparent to the people that the public schools are worthy of their respect. Now, in this act, aside from the four months limitation, the whole system looks to a very inferior grade of school; in fact, it seems to aspire only to that sort. For instance, in section twenty-five will be seen the qualifications deemed sufficient for a teacher in a public school. Those qualifications are even less than is required under the present system for the third class teacher. Such a provision would alone bring the system (or rather *unsystem*)

into contempt. It is an admission that all Texas considers herself capable of, is the establishment for a few weeks annually of primary schools. But even of these very limited qualifications for our teachers, the county superintendents, whose accomplishments nobody is responsible for, are to be the judges. What, then, may be expected?

4. The expense attending the county organizations under this act, and the multiplicity of officers it creates should be noted. There is to be for each county a county board of five directors, which for the first year is calculated to cost each county five hundred and twenty dollars, or for the whole State upwards of \$70,000. These boards are intended in a vague and ineffective sort of way to take the place of the present supervisors and inspectors. They cannot, it is clear, perform the duties of those officers, but they cost more—the supervisors and principals (the latter then doing the duties of the present inspectors), having cost for the last scholastic year but \$65,810 72. It must also be remembered that this was the cost of supervisors and principals for ten months, while the above cost of the county boards is for only four months. But in addition to these county boards, there is an army of school trustees provided. These cannot be less than fifteen and may be many more for each county. In this respect it is quite remarkable that while the county boards, which have little or nothing to do, are paid at the rate four dollars each per day; the trustees who, if they do their duty, will find their time pretty much engaged for the whole scholastic year, are to be paid *nothing*. It will be interesting to compare the importance of the duties to be required of the *unpaid* trustees, in section twenty-two, and elsewhere, with those required of the *paid* county boards. The main business of the latter seems to be that of keeping the former busily at work. It is scarcely necessary to remark that in no county of the State will fifteen honest and competent persons be found willing to attend, without pay, to the duties required of these trustees.

5. The act repeals all previous acts, thus repealing the taxes assessed under those laws. It is true the repealing section (thirty-sixth) proposes not to affect the legal liability of any one for taxes "claimed to be due" under those acts for the year 1871, but the taxes under the act

of April 24, 1871, are nearly or quite altogether due for 1872 and 1873. In most of the counties the first year's assessment did not go into effect until 1872. Thus it would happen that in counties where the wealthy have taken advantage of the law's delay, the poor and people of moderate means, who have paid their school taxes, would find their rich neighbors given by this an unfair advantage. Direct encouragement would thus be offered to those who have evaded their share of the burden, to the great detriment of the schools and injury of the teachers, whose pay has been thereby wrongfully withheld.

The foregoing are sufficient, and perhaps the most vital defects of the act, but I might point out others that probably have been overlooked in the haste of legislation, such as the requirements in sections four and five, and elsewhere, that the Superintendent shall give good advice and instruction to teachers, county superintendents, and other school officers. The Superintendent is required by the act to do a great deal of this, enough (when we consider that the teachers and officers to be advised and instructed will probably number six or eight thousand) to employ actively a score or two of clerks, but he is limited to the assistance of one clerk only. It may be said, however, that no great harm can occur, even if the Superintendent does not engage in this expensive correspondence, as he is made a sort of figurehead by the act, and none of those to whom he offers his advice and instruction need, for anything in the act to the contrary, vouchsafe the least respect to his wishes or opinions.

In conclusion, I ask to be permitted to refer, with all respect, to a remark contained in my message at the opening of the session. On the subject of public schools it was there said, "while, then, we have an edifice which has so clearly demonstrated its practical efficiency for the purpose in view at its foundation, I respectfully suggest that it had better not be torn down to make way for the experiment of some theorist." I had then in view the possibility now realized in this act of legislation. We have had a system under way for two years, and the people have largely become accustomed to it. It should therefore be *amended* if amendments are necessary—and in that message I suggested some which I thought might properly be made—but it is not sound policy to destroy it and substitute something entirely new and untried. The

worse system or law for any people is a changeable one. This Legislature proposes totally to ignore the work of the last and establish something of its own special devising. The next Legislature may apply the same rule to the work done by this, and so to the end.

Very respectfully,

EDMUND J. DAVIS, Governor.

Senator Dohoney moved that the message be referred to a special committee of three, and that one hundred copies of the bill and message be printed. Carried.

The President then appointed the following committee, viz.: Senators Dohoney, Sayers and Saylor.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: On behalf of the Committee on Enrolled Bills, I hereby report that on yesterday, at 12:30 o'clock P. M., I presented to his Excellency the Governor, for his signature and approval, Senate bill No. 296, "An act prescribing the times of holding general elections in this State; and that I also did to-day, at 9:15 A. M., present to his Excellency for his signature and approval the following Senate bills:

No. 173, "An act to prohibit the sale of intoxicating liquors within two miles of Lynn Flat High School House, in Nacogdoches county."

No. 331, "An act to prohibit the sale of intoxicating liquors within two miles of Pattonville, in Lamar county."

No. 311, "An act to incorporate the Bastrop Turn Verein."

H. R. LATIMER, Chairman.

The hour having arrived, the special order, viz., Senate joint resolution No. 38, for the relief of J. G. Todd, was taken up, read second time, and referred to Judiciary Committee No. 1.

On motion of Senator Ford, the rules were suspended and House bill No. 664, "An act to amend section three of an act to incorporate the Falls County Turnpike Road and Bridge Company, approved April 17, 1871," was taken up, read second time and passed to third reading; rule suspended, read third time and passed.

On motion of Senator Saylor, the rules were suspended and House bill No. 274, "An act to amend an act to incorporate the town of Bryan, and incorporate said town

as the city of Bryan," was taken up, with amendments recommended by Committee on State Affairs, which were adopted, and bill read second time and passed to third reading; rules suspended, bill read third time and passed.

Senator Ruby, one of the Committee on Engrossed Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Engrossed Bills have examined and find correctly engrossed the following bills, viz.:

Senate bill No. 297, "An act for the relief of R. C. Hunt."

Senate bill No. 305, "An act to incorporate the Texas Land and Colonization Company."

Senate bill No. 236, "An act to incorporate the Eastern Narrow Gauge Railroad Company."

Senate bill No. 288, "An act to incorporate the Austin and Colorado Valley Water Works and Irrigation Company, and to provide a method to aid said company in the accomplishment of the object of its creation."

Senate bill No. 162, "An act for the relief of Thomas F. McKinney."

Senate bill No. 235, "An act for the relief of the heirs and assigns of Joseph Percival, deceased."

Senate bill No. 266, "An act for the relief of the heirs of Augustus W. Shipley."

Senate bill No. 322, "An act to authorize G. W. Harper to construct and keep a toll bridge across South Sulphur Fork of Red river."

G. T. RUBY, for Committee.

On motion of Senator Dohoney, the rules were suspended and Senate bill No. 310, "An act to confer additional jurisdiction on the presiding justices of Lamar and Fannin counties," was taken up, read second time and ordered engrossed; rules further suspended, bill read third time and passed.

Senator Avinger, by leave, introduced a bill supplemental to and amendatory of "An act to incorporate the city of Jefferson, approved August 18, 1873." Read first time and referred to Committee on State Affairs.

Senate bill No. 294, "An act to incorporate the Irish Immigration and Colonization Company," unfinished business, was taken up, and referred to Judiciary Committee No. 1.

A message was received from the House requesting the Senate to return to the House Senate engrossed bill No. 296, "An act prescribing the times of holding general elections in the State," the House having reconsidered the vote passing said bill. Request granted.

Senator Fountain offered the following resolution, which was adopted :

Resolved, That the sergeant-at-arms be and he is hereby instructed to prepare seats for the members of the House of Representatives in the Senate Chamber during the trial of the impeachment of John G. Scott, Judge of the Tenth Judicial District.

On motion of Senator Word the rules were suspended to take up House bill No. 200, "An act granting a charter to James A. Mitchem and H. L. Gilmore to create, keep and run a ferry boat at New Bazette landing or crossing on Trinity river, in Henderson county and Navarro county."

The bill was read second time and passed to a third reading; rules further suspended, read third time and passed by the following vote :

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Henry, Latimer, Pyle, Rawson, Ruby, Sayers, Shelley, Tracy and Word—20.

On motion of Senator Fountain the Senate took a recess for ten minutes.

Recess expired. Senate met. Roll called; quorum present.

The Senate then resolved itself into a high court of impeachment for the trial of J. G. Scott, Judge of the Tenth Judicial District.

Senators Evans and Rawson were sworn as members of the court.

The sergeant-at-arms made the required proclamation.

The managers from the House of Representatives were announced, and took seats within the bar of the Senate, and the defendant Scott, by attorneys, Sheeks, Good, Robinson and Farr, were seated with the managers within the bar of the Senate.

The managers on part of the House of Representatives for themselves, and the people of the State of Texas, preferred the following additional charges against John G. Scott, Judge of the Tenth Judicial District :

THE STATE OF TEXAS v. JOHN G. SCOTT.—Before Special Committee of House of Representatives.

1. That the said John G. Scott, judge, etc., as aforesaid, and Thomas D. Evans, district attorney of the Tenth Judicial District of the State of Texas, during the term of office of the said Evans, to-wit, from the first day of March, 1871, until the first of November, 1872, combined and confederated together to obtain money unlawfully and corruptly from the people at large, and in particular from parties indicted in the District Courts of the counties of Anderson, Henderson, Van Zandt and Kaufman, and having so combined and confederated together, did, during the said time in the said counties, unlawfully and correctly obtain and receive divers large sums of money from many persons, to-wit, from John S. Fulbright, R. C. Parks, Henry Fields, C. L. Thompson, R. B. Petty, Daniel Wagner, John P. Bowles, Isaiah Bowles, Thomas Blackstock, John G. Gibbs, James F. Brown, William Brown and many others; and that during the said time the said Scott and Evans did combine and confederate together to embezzle large sums of money belonging to the State of Texas, and the said counties of the said judicial district, and that the said Evans aided and abetted by the said Scott, did, during the said time, embezzle large sums of money belonging to the State of Texas and the said counties.

2. That in the county of Anderson, at the December term of the District Court of the said county, A. D. 1870, in a case of a judgment *nisi*, upon a forfeited bail bond, wherein John S. Fulbright was principal and Joseph R. Parker, S. R. Parks, Henry Fields, C. L. Thompson, R. B. Petty and Daniel Wagner were sureties, in the sum of seven thousand dollars, the said John G. Scott, in violation of law and corruptly, released the said Petty, one of the said sureties, upon his, the said Petty, paying the said Evans, district attorney as aforesaid, seventy-five dollars, and that the said Evans did then and there, with the knowledge and approval of the said Scott, in violation of law and corruptly, receive the said seventy-five dollars, and that the said Scott, in consideration of the said payment, corruptly released the said Petty on the said bond; and that afterwards, to-wit, at the said term of the said court, the said Scott from the bench ordered the

other sureties on the said bond to compromise with the said Evans, and threatened them if they did not he would render final judgment against them for the full amount of the said bond, and being so threatened, the said sureties did agree to compromise with the said Evans, and the said Evans did then and there, under the direction of the said Scott, compromise with the said sureties, and upon said compromise judgments were rendered up against each of the said defendants in a sum of one hundred dollars and more, and the said Scott did then and there order one of the said sureties, to-wit, Henry Fields, to pay the judgment rendered as aforesaid against him, to-wit, \$107, instantler, stating to him, the said Fields, if he did not he, the said Scott, would order him to jail; which said sum of money the said Evans did then and there receive from the said Fields, in violation of law and corruptly, being aided and abetted in the meantime by the said Scott, which said sum of money the said Evans now unlawfully and corruptly holds; and that afterwards, to-wit, on the twenty-sixth of September, 187-, when these outrageous acts of wrong, malfeasance, corruption, oppression and crime were made known to Governor E. J. Davis, he, the said Davis, remitted the said judgment and ordered the money already paid under the orders and directions of the said Scott to be returned to the rightful owners. And that afterwards, to-wit, at the . . . term of the District Court of the said county of Anderson, when the proclamation of the Governor remitting the said judgment was presented in court, and offered to be read and entered of record, the said Scott defiantly ignored the same, and prohibited the reading of it in court, and denied the right of the Governor to interfere in the premises, and did then and there unlawfully aid and encourage the said Evans in corruptly holding and retaining the same.

3 That the said John G. Scott, judge, etc., as aforesaid, did, in his capacity as judge as aforesaid, from the first of March, 1871, until the first of November, 1872, aid and abet, and connive at the corruption and malfeasance in office of Thomas D. Evans, District Attorney of the Tenth Judicial District of the State of Texas.

4. That the said John G. Scott, in his capacity as judge as aforesaid, did, during the term of office of the said Evans, connive at and encourage the said Evans, district attorney as aforesaid, in unlawfully and cor-

ruptly receiving money and other property from parties defendant in criminal prosecutions in the counties of Anderson, Henderson, Van Zandt and Kaufman, and in civil suits wherein the State of Texas was plaintiff. And that the said Evans, in his capacity of district attorney as aforesaid, with the knowledge and approval of the said Scott, did, in violation of law and corruptly, receive large sums of money from such defendants as aforesaid.

5. That during the present term of office of the said John G. Scott, while the said Thomas D. Evans was district attorney as aforesaid, the administration of criminal law in the Tenth Judicial District has been notoriously corrupt; that during the said time, so called justice, with the knowledge and approval of the said Scott, has been bought and sold as a market commodity; that every crime had its price, and he who had money or favor with Scott could make terms with the State, no matter what his offense.

6. That in the county of, at the term of the District Court of said county, A. D. 187-, the said Evans, district attorney as aforesaid, with the knowledge and approval of the said Scott, corruptly received..... dollars from....., and was then and there guilty of bribery.

7. That at the February term, 187-, of the District Court of the county of Van Zandt, the said John G. Scott, in his capacity as judge, in violation of law, and corruptly, with the intent to give to the official corruption and bribery of the said Evans, district attorney as aforesaid, the sanction of law, instructed and directed the said Evans that he had the right and was authorized to settle criminal prosecutions by compromise outside the court house, and then and there stated that the course thus pursued was highly commendable, and that the said Evans, acting under the said advice and encouragement of the said Scott, withdrew a great many criminal prosecutions then pending in the said court, and in the district courts of all the counties of the Tenth Judicial District; and for so doing, with the knowledge and approval of the said Scott, corruptly received money in not less than three hundred cases, and in sums of not less than five dollars in each case so disposed of, a great many of which were felony cases.

8. That the said John G. Scott, judge, etc., as afore-

said, during the time the said Evans was district attorney as aforesaid, often and most generally became indignant when a party in a criminal cause came into court to defend himself, and manifested a determination to convict such person, no matter whether there was any evidence against him or not; and when the jury, in such cases, dared return a verdict of not guilty, he, the said Scott, manifested the greatest displeasure, often severely reprimanding the members thereof, and charging them with perjury as jurors, sometimes dismissing them and disfranchising them from afterwards serving as jurors; and that thus the said Scott did intimidate jurors trying criminal causes, and in effect deny the right of trial by jury to defendants in criminal prosecutions.

9. That the said John G. Scott has decided a great many causes, which have come before him, corruptly, either through favor or prejudice for or against the parties litigant or their attorneys.

10. That he, the said John G. Scott, judge, etc., has and does hear causes outside the court house, and so having heard them, has and does corruptly decide them.

11. That in the county of Henderson, at the term of the district court of said county, A. D. 187-, the said John G. Scott, from the bench, gave directions that a great many criminal cases, to-wit, twenty or more, then pending in the district court of said county against John P. Bowles, Isaiah Bowles, and others, be compromised; that afterwards, to-wit, at the term of the said court, 187-, with the knowledge and approval of the said Scott, Thomas D. Evans, district attorney as aforesaid, in violation of law and corruptly, *nolle prossed* all of the said cases, and at the same time compromised a number of criminal cases then pending in the District Court of Van Zandt county, among which cases pending in the said court were a great many indictments for felony, horse theft, perjury, theft from a house, etc.; and that, in consideration therefor, with the knowledge, approval and encouragement of the said Scott, the said Bowles and others paid to the said Thomas D. Evans five hundred dollars in gold and silver coin, and that then and there the said Evans corruptly received the said money from the said Bowles and others, and that the same was received openly in the court house, in the town of Athens, in the said county of Henderson, in view of

the said Scott, and that the said Scott then and there encouraged and aided the said Evans in the aforesaid acts of corruption, malfeasance and crime.

That in the county of Anderson, on the twenty-ninth day of April, 1871, the said John G. Scott, before Thomas D. Evans, district attorney, made an affidavit to the effect that John G. Kirksey had abused him, and that he was in great bodily fear, and then and there filed the said affidavit with the clerk of the district court, and caused the said clerk to issue a *capias* thereon for the arrest of the said Kirksey, and then and there had the said Kirksey brought before him, the said Scott, and the said Scott then and there heard the said matter wherein he was the complainant, and then and there required of the said Kirksey excessive bail, to-wit: bail in the sum of \$15,000, to keep the peace against him, the said Scott, and all other good citizens of the State of Texas, all of which was done by the said Scott, unlawfully, wantonly and maliciously, with the intention of oppressing the said Kirksey and depriving him of his liberty.

That in the county of Kaufman, at the June term of district court of the said county, A. D. 1871, the said John G. Scott, judge, etc., as aforesaid, wantonly and maliciously, with a view of torturing the administration of criminal law into a machine of oppression, and coercing juries into verdicts of conviction, upon a certain jury of good and lawful men, duly impaneled, of which M. A. Morris was foreman, returning a verdict of not guilty in a certain criminal cause then pending in the said court against George Dagget, severely reprimanded the said jury, and then and there dismissed them and disfranchised them from sitting on any jury for twelve months, and said to them: "If I had the power I would disfranchise you forever;" all of which was done in violation of law and in invasion of the rights of the citizen to trial by jury.

That in the county of Anderson, at the term of the district court of the said county, in 1871, the said John G. Scott, upon his own affidavit, for a personal affront offered him by J. G. Kirksey, had the said Kirksey arrested and brought before him, and heard the said matter wherein he, the said John G. Scott, was complainant, and without authority of law, and maliciously required the said Kirksey to enter into a peace bond of fifteen thousand dollars.

The attorneys for defendant asked to be granted till 10 o'clock to-morrow to consider the additional charges submitted, and to answer.

Ordered by the following vote :

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Gaines, Hall, Henry, Latimer, Pyle, Rawson, Randle, Ruby, Sayers, Shelley, Swift, Tracy, Word and Mr. President—25.

On motion of Senator Flanagan, the attorneys for defense were allowed to withdraw the original copy of the additional charges preferred.

On motion of Senator Dohoney, the court adjourned to 10 o'clock A. M. to-morrow.

In Senate.

Senator Shelley moved to reconsider the vote by which the Senate indefinitely postponed Senate bill No.—, "An act to incorporate the El Paso Irrigation Company."

On motion of Senator Fountain, the motion to reconsider was laid on the table.

On motion, the Senate adjourned to 4 o'clock P. M.

AFTERNOON SESSION.

Senate met at 4 o'clock P. M., pursuant to adjournment. Roll called ; quorum present.

Senator Dohoney in the chair.

Senator Pickett introduced a bill to be entitled "An act prescribing the times of holding general elections in the State of Texas for State officers, Senators and Representatives to the Legislature of the State, and district and county officers." The bill was read first time.

Senator Pickett moved a suspension of the rules, and that the bill be read a second time.

The hour having arrived for the special order, viz., Senate bill No. 259, "An act to incorporate the Fort Worth and Denver City Railway Company," on motion of Senator Pickett, the same was postponed until the pending business was disposed of.

Senator Shelley moved a call of the Senate. Call sustained.

Absent—Senators Dillard, Latimer and Rawson.

The sergeant-at-arms was dispatched for the absent Senators.

The special order, viz., Senate bill No. 259, "An act to incorporate the Fort Worth and Denver City Railway Company," was then taken up.

The bill was read second time and ordered engrossed.

On motion of Senator Evans the bill was made special order for to morrow at 4 o'clock P. M.

On motion of Senator Baker, the rules were suspended to take up Senate bill No. 186, "An act for the relief of the heirs of Harrison W. Goynes, deceased."

The bill was read second time and ordered engrossed; rules further suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Franks, Gaines, Hall, Pyle, Rawson, Randle, Ruby, Sayers, Shelley, Swift, Tracy and Word—20.

The following message was received from his Excellency the Governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, May 7, 1873. }

To the Honorable Senate and House of Representatives of the State of Texas:

GENTLEMEN: The act sent to this office on the first instant, entitled "An act making a new apportionment of the representative and senatorial districts of the State of Texas," became a law to-day without my approval.

I did not return it, though very objectionable, because perhaps it is a little better than the pre-existing apportionment, and I was informed that, if objected to, there might possibly be no other act on the subject passed at this session.

The Constitution, in article three, section thirty-four, seems to look to an apportionment of the members among the districts according to the number of qualified electors. There has been no special census made of the electors in the State; the next best means, therefore, of arriving at a fair apportionment would be to take the United States census of 1870; but I conclude from the result that this could not have been done.

The flagrant inequality and unfairness of the apportionment made will be apparent from the following comparative specimens of districts, taken from the act, with their respective populations, as given by the census:

First District	30,660
Second District.....	32,917
Seventh District.....	22,121
Eighth District.....	21,990
Sixteenth District.....	31,606
Twenty-second District.....	20,592
Twenty-third District.....	22,650
Twenty-fifth District.....	17,494
Twenty-ninth District.....	35,007
Thirtieth District.....	40,494

I have thought it proper to place before the Legislature, in this shape, the contents of this important bill, under the conviction that these and other irregularities therein must have been overlooked. And further that the Legislature, before it adjourns, will, by supplemental act, correct the same, and do even justice to all sections of the State in this very essential requisite of our system of government—equality of representation.

If my views in this regard meet the concurrence of the Legislature, I will suggest a return to the rule in force before the adoption of the present apportionment, of distributing the members of the House of Representatives without regard to the senatorial districts. I mean by this that where, for instance, any one county has alone sufficient relative population for a representative, to give it one, and so of other counties or combinations of counties. Thus representation in that house may be better equalized and more in accord with the local wishes of the people.

EDMUND J. DAVIS, Governor.

Senator Finlay, chairman of Judiciary Committee No. 2, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 180, to be entitled "An act to define and regulate the punishment of theft," having carefully considered the same, I am instructed to report it back to the Senate and recommend its passage.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 304, to be entitled "An act to validate bounty land warrants issued to John B. Fox," having carefully considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 332, to be entitled "An act supplemental to and amendatory of the several acts concerning injunctions," having carefully considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman.

Senator Hall introduced a bill to be entitled "An act to authorize and require the County Court of Robertson county to return certain county scrip therein specified and to issue the bonds of said county in lieu thereof."

The bill was read first time; rules suspended, read second time and ordered engrossed; rules further suspended, read third time and passed.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Enrolled Bills beg leave to report that they have carefully examined and compared Senate bill No. 13, "An act to consolidate the Houston and Brazoria Railway, the Huntsville Branch Railway, and the Victoria and Columbus Railroad with the Houston and Great Northern Railroad."

Senate bill No. 181, "An act regulating contested elections."

And Senate joint resolution No. 39, "Memorializing Congress to provide for the improvement of the entrance into Matagorda bay."

And find the same correctly enrolled.

H. R. LATIMER, Chairman.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 824, "An act requiring the Commissioner of the General Land Office to furnish the surveyor's office of Hays county with a transcript of the records of said office."

House bill No. 847, "An act supplemental to the act incorporating the city of Dallas."

House bill No. 833, "An act making provision for the trial of all State officers not provided for in the Constitution."

House bill No. 821, "An act to authorize the County Court of Waller county to issue coupon interest-bearing bonds for the building of a court house and jail and transcribing deeds, etc., and to levy a tax for the same."

House bill No. 832, "An act providing compensation for persons examining railroads."

House bill No. 823, "An act to incorporate the Deutscher Volks Fest Verien von Houston."

House bill No. 286, "An act to suppress gambling."

House bill No. 844, "An act to authorize the County Court of Walker county to levy a special tax to repair the court house and jail in said county."

Senate bill No. 111, "An act to provide for supplying the records of Lampasas county destroyed by fire."

Senate bill No. 291, "An act for the relief of C. C. De Witt and other persons therein named."

Senate bill No. 228, "An act to incorporate the town of Jacksonville, in Cherokee county."

Senate bill No. 179, "An act making appropriation for the payment of the expenses of the several contested election cases and special investigations before the present Legislature, with amendments by the House."

House bill No. 850, "An act prescribing the times of holding general elections in this State."

Also, that the House had refused to recede from its amendments to Senate bill No. 52, "An act to amend sections one, one hundred and fourteen, one hundred and ninety-two, two hundred and seventeen, two hundred and thirty-five, two hundred and forty, two hundred and forty-two, two hundred and fifty, two hundred and fifty-one, two hundred and sixty-six and three hundred and forty-one of an act prescribing the mode of proceeding in district courts in matters of probate, approved August 15, 1870," and that the House had appointed Messrs. Wood, Sayers and Venters a committee of conference on the part of the House on the disagreement between the two houses on said bill, and requesting the appointment of a like committee on the part of the Senate.

On motion of Senator Cole, the rules were suspended to take up House bill No. 727, "An act to prohibit the sale of intoxicating, spirituous or vinous liquors within three miles of Roxton Chapel and Seminary, in Lamar county."

The bill was read second time and passed to third reading; rules further suspended, bill read third time and passed.

On motion of Senator Word, the rules were suspended to take up Senate bill No. 241, "An act to amend the charter of the town of Palestine, in Anderson county."

The bill was read second time and ordered engrossed; rules further suspended, read third time and passed.

On motion of Senator Franks, the rules were suspended to take up Senate bill No. 182, "An act making an appropriation to pay certain unpaid contingent expenses of the Twelfth Legislature." The bill was read second time.

Senator Henry moved to refer the bill to the Committee on Finance. Lost by the following vote:

Yeas—Senators Avinger, Dillard, Dohoney, Evans, Henry, Latimer, Sayers, Shelley, Swift, Word and Mr. President—11.

Nays—Senators Baker, Ball, Ford, Finlay, Fountain, Gaines, Hall, Pyle, Rawson, Randle, Ruby, Saylor and Tracy—13.

Senator Shelley moved to refer the bill to Judiciary Committee No. 1. Carried by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Henry, Latimer, Pyle, Rawson, Sayers, Shelley, Swift, Word and Mr. President—15.

Nays—Senators Baker, Ford, Flanagan, Fountain, Franks, Gaines, Hall, Randle, Ruby, Saylor and Tracy—11.

The Senate being full on the appearance of the absent Senators, the call was suspended.

The question being a suspension of the rules to place the election bill upon its second reading, the same was put and lost by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Henry, Sayers, Shelley, Swift, Word and Mr. President—14.

Nays—Senators Baker, Ford, Fountain, Franks, Gaines, Hall, Latimer, Pyle, Rawson, Randle, Ruby, Saylor and Tracy—13.

On motion of Senator Gaines, the rules were suspended to take up Senate bill No. 247, "An act for the relief of William Simpson." Read second time and ordered engrossed; rules suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Fountain, Gaines, Hall, Henry, Latimer, Pyle, Ruby, Saylor, Sayers, Shelley and Swift—20.

Nay—Senator Word—1.

On motion of Senator Ford, the rules were suspended

to take up House bill No. 304, "An act to validate bounty land warrant issued to John B. Fox." Read second time; rules suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Hall, Latimer, Pyle, Rawson, Randle, Saylor, Shelley, Swift and Tracy—21.

Nays—Senators Henry and Word—2.

On motion of Senator Evans, the rules were suspended to take up House bill No. 691, "An act to prohibit the sale of intoxicating, spirituous or vinous liquors within one and one-half miles of Sylvan Academy, in Lamar county, Texas." Read second time; rules suspended, read third time and passed.

On motion of Senator Word, the rules were suspended to take up Senate bill No. 300, "An act for the relief of Quilla J. Nichols." Read second time and ordered engrossed; rules suspended, read third time and passed by the following vote:

Yeas—Senators Ball, Cole, Dohoney, Evans, Ford, Finlay, Flanagan, Hall, Henry, Pyle, Randle, Saylor, Sayers, Shelley, Swift, Tracy and Word—17.

Nays—Senators Avinger, Dillard, Fountain, Gaines and Rawson—5.

On motion of Senator Ford, the Senate adjourned till 9 o'clock A. M. to-morrow.

SENATE CHAMBER,
AUSTIN, TEXAS, May 8, 1873.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Pyle, the reading of the journal of yesterday was dispensed with.

On motion of Senator Henry, Senator King was excused from attendance on the Senate for to-day.

Senator Dillard presented the following communication from the Secretary of State, which was referred to the Committee on State Affairs: